

1 BILL NO. S-85-10-24

2 SPECIAL ORDINANCE NO. S- 196-85

3 AN ORDINANCE approving Contract
4 for Res. #400-84, Pontiac Street-
5 Radcliffe Drive Sanitary Sewer,
6 by the City of Fort Wayne, by and
7 through its Board of Public Works
8 and Safety and Tomco Construction,
9 Inc.

10 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
11 THE CITY OF FORT WAYNE, INDIANA:

12 SECTION 1. The annexed Contract for Res. #400-84,
13 Pontiac Street-Radcliffe Drive Sanitary Sewer, made a part hereof,
14 by the City of Fort Wayne, by and through its Board of Public
15 Works and Safety and Tomco Construction, Inc., is hereby ratified
16 and affirmed and approved in all respects. The work under said
17 Contract requires:

18 The Contract for Res. #400-84, Pontiac-
19 Radcliffe Sanitary Sewer Improvement
20 is for the following:

21 MAIN LINE

22 Beginning at a proposed manhole located
23 20+ L.F. West of and 15+ L.F. South of
24 from the Southeast Corner of McKee
25 Street and Radcliffe Drive, thence due
26 North 385+ L.F. terminating at a pro-
27 posed manhole located 20+ L.F. west of
28 and 15+ L.F. South of from the Southeast
29 corner of Pontiac Street and Radcliffe
30 Drive; said sewer shall be 8" in diameter;

31 the Contract price is Fourteen Thousand Nine Hundred Twenty-Five
32 and No/100 Dollars (\$14,925.00).

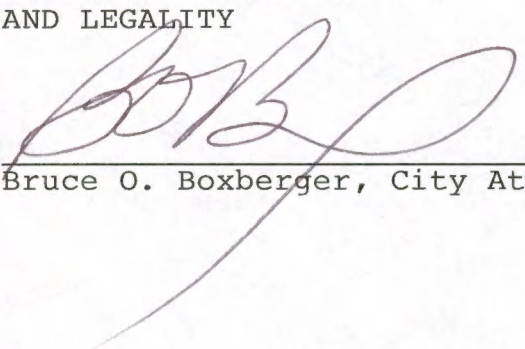
SECTION 2. Prior Approval was received from Common
Council with respect to this Contract on August 27, 1985. Two
(2) copies of the Contract attached hereto are on file with the
City Clerk and are available for public inspection.

1 Page Two

2 SECTION 3. That this Ordinance shall be in full force
3 and effect from and after its passage and any and all necessary
4 approval by the Mayor.

5
6 
7 Councilmember

8 APPROVED AS TO FORM
9 AND LEGALITY

10 
11 Bruce O. Boxberger, City Attorney
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Read the first time in full and on motion by Henry, seconded by 2 others, and duly adopted, read the second time by title and referred to the Committee City of Fort Wayne (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ .M., E.S.

DATE: 10-8-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by 2 others, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>BRADBURY</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>BURNS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>EISBART</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>GIAQUINTA</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>HENRY</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>REDD</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHMIDT</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>STIER</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TALARICO</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DATE: 10-22-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. D-196-85 on the 22nd day of October, 1985,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 22nd day of October, 1985, at the hour of 11:30 o'clock P.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 25th day of October, 1985, at the hour of 3:30 o'clock P.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

**BOARD OF PUBLIC WORKS and SAFETY
INVITATION FOR BIDS/AWARD OF CONTRACT*
(Non-Federally Assisted Construction)**

PROJECT: PONTIAC STREET -RADCLIFFE DRIVE SANITARY SEWER Contract No. 400-84

CONTENTSResolution No. 400-1984

Check if Contained	Pages	
	1	Cover Sheet
	A/1 - A/2	Advertisement for Bids
	I/1 - I/9	Instructions to Bidders
	S/ 1-S/2	Schedule
	S/ 2-S/	Schedule of Items
	S/	Notes 1 and 2
	NCA/1	Non-Collusion Affidavit
	BB/1	Bidder's Bond
	FS/1	Certificate in Lieu of Financial State- ment Form 96A
	PB/1-PB/2	Specimen Form-Payment Bond
	PGB/1-2	Specimen Form-Perfor. & Guaranty Bond
	GP/1-GP/7	General Provisions
	WS/1	Prevailing Wage Rates-State of Indiana
	SP/1	Special Project Specifications

ATTACHMENTS

			Project Plans Drawing # SY-11124		
			General Specifications and Conditions		
			Detail Standard Construction Standards		
			WPCE Department, City of Fort Wayne		
		EA/1-EA/4	Escrow Agreement		
		RW/1	Right-of-Way Cut Permit		
		NP/1	Notice to Proceed		
		CO/1 CO/2	Change Order - Specimen Form		
		NA/1	Notice of Award		
DISCOUNT for PROMPT PAYMENT (See Gen. Prov)	10 CALENDAR DAYS _____ %	20 CALENDAR DAYS _____ %	30 CALENDAR DAYS _____ %	OTHER _____ %	
ACKNOWLEDGEMENT of AMENDMENTS		Amendment No. 1	Date	Amendment No. _____	Date

BID SUBMITTED**TOMCO CONSTRUCTION CO., INC.**

Contractor

By: THOMAS FISHKINGIts PRESIDENTOffer
Date 8-14-85

Bidder agrees to keep bid open for accep-
tance for _____ (90 days unless
otherwise specified)

Compliance C. Bailey
O.C. 2/85

ACCEPTANCE OF BID/AWARD OF CONTRACT

CITY OF FORT WAYNE

Board of Public Works & Safety

David K. Kunt
Robert A. Kunt
James D. Conners

CITY OF FORT WAYNE

Win Moses, Jr., Mayor

AWARD
8-21-85

Minority Business Enterprise (MBE) is a business of which at least 51% is owned and controlled by minority group members. ("Minority" means Black, Hispanic, American Indian, Asian, Pacific Islander, and Alaskan Native). The minority owners must exercise actual day-to-day management, as well as actively participate in management and policy decisions affecting the business. The contribution of capital, equipment or expertise made by the minority owners must be real, substantiated and documented.

Women Business Enterprise (WBE) is a business of which at least 51% is owned and controlled by women. The women owners must exercise actual day-to-day management, as well as actively participate in management and policy decisions affecting the business. The contribution of capital, equipment or expertise made by the women owners must be real, substantiated and documented.

The contract for which this proposal/bid is prepared is governed by the MBE/WBE Ordinance. This form must be completed in order to be responsive to this IFB/RFP. If the participation goal of 7% for MBE and 2% for WBE are not met or exceeded in your bid or proposal, the reasons for this failure and reasonableness and good faith of efforts to meet this goal shall be evaluated in determining whether the bidder/offeror is responsible.

A list of possible MBE/WBE contractors/suppliers are on file in the Compliance Office, Room 800, City-County Building, for Contractor review.

THE FOLLOWING IS THE UNDERSIGNED'S COMMITMENT TO THE MBE/WBE GOALS OF THE CITY FOR WORK DONE PURSUANT TO THIS CONTRACT:

- A. _____ The undersigned firm certifies that it is an MBE/WBE Contractor (cross out inapplicable provision).

For MBE specify percentage of minority ownership _____%.

For WBE specify percentage of women ownership _____%.

- B. _____ The undersigned certifies that they are a joint venture in which the following (MBE/WBE) firm _____ (cross out inapplicable provision) is a joint venture partner.

The MBE/WBE firm (cross out inapplicable provision) shall have _____% participation (employees) _____% participation (costs) in this project.

Specify the percentage of minority/women ownership in the MBE/WBE firm _____. (cross out inapplicable provision)

- C. The undersigned commits 7 % of the total bid price as a subcontract to minority business enterprise participation. The MBE firms which are proposed as subcontractors are the following:

<u>Name of Firm</u>	<u>Address</u>	<u>Type of Work</u>
1. METROPOLITAN	ADON DALE	CONCRETE
2.		
3.		

- D. The undersigned commits 2 % of the total bid price as a subcontract to women business enterprise participation. The WBE firms which are proposed as subcontractors are the following:

<u>Name of Firm</u>	<u>Address</u>	<u>Type of Work</u>
1. STATEWIDE	L. Huntington RP.	TRUCKING
2.		
3.		

- E. Complete (1) and (2) below if participation goals of 7% MBE and 2% WBE have not been met.

1. My Company cannot meet the participation goals for the following reasons: _____

2. We have taken the following steps in an attempt to comply with these participation goals: _____

(attach additional sheets as necessary)

Contractor TOMCO CONSTRUCTION CO., INC. Contractor _____

By Thomas FISHKING By _____

Its PRESIDENT Its _____

14. Minority/Female Hourly Employment Requirements.

The City's policy is to encourage a greater utilization of minority and/or female employees in City construction projects. The Board has, therefore, adopted a minimum goal of 17% of the total work hours on each project to be expended by minority and/or female employees. ("Minority" shall include: Blacks, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native.)

The bidder shall state in "A" below the percentage of total work hours which the bidder and his subcontractors will employ and utilize women and minority employees on this project. If a contract is awarded as a result of this bid, the percentage figure set forth in "A" shall become contractually binding on the bidder. The successful bidder will also be required to prepare reports for the City demonstrating compliance with this percentage and will allow city officials access to his records, facilities and work site and to those of his subcontractors to determine compliance.

The bidder must fill in the required blanks in this clause in order to be responsive to this IFB. If the bidder does not meet or exceed the hourly utilization goal of 17% minority/female participation, the reasons for this failure and reasonableness and good faith of efforts to meet this goal shall be evaluated to determine whether the bidder is responsible.

THE FOLLOWING IS THE UNDERSIGNED'S COMMITMENT TO MINORITY/FEMALE HOURLY UTILIZATION.

A. The undersigned firm certifies that it will employ and utilize minorities and females and/or will ensure that its subcontractors employ and utilize minorities and females so that minorities and females will work at least 17% of the total hours worked on this project.

B. Complete (1) and (2) below if the hourly utilization figure set forth in "A" is less than 17%.

1.. My Company and its subcontractors cannot meet the 17% minimum hourly utilization figure for the following reasons: _____

_____.

2. My Company has taken the following steps in an attempt to comply with the 17% hourly utilization figure:

(attach additional sheets if necessary)

Contractor Towco Const. Co Inc
By Jerry M. Mear
Its Agent of:

15. Required Prevailing Wage Schedule Payments - Pursuant to Indiana Code 5-16-7-1. All contractors and subcontractors working on the project awarded pursuant to this contract shall pay the prevailing wage rates for skilled, semi-skilled and unskilled laborers, workmen and mechanics. This wage determination has been made in accordance with the procedures set forth in Indiana Code 5-16-7-1. This determination and the required wage rates are available for examination by any prospective bidder at The Board of Public Works and Safety, 9th Floor, City-County Building, Fort Wayne, Indiana.

If a bidder is awarded a contract as a result of this Invitation for Bids, he/she/it shall file a schedule of wages, on forms provided by the City of Fort Wayne, demonstrating compliance with the wage rate determination. The successful prime contractor shall be responsible for obtaining schedules from all subcontractors. All schedules shall be filed before the contractor commences any work on the project.

Penalties for failure to pay the prevailing wage rate are set forth in Indiana Code 5-16-7-3.

16. Site Orientation. A site orientation (will/will not) be conducted by the City Engineers. If such an orientation is conducted, it will be held on the ____ day of _____, 19____, commencing at ____ o'clock ____ M. at the site of the project.

Regardless of whether a site orientation is conducted or not, bidders are required to visit the site of the work, and inform themselves fully of the conditions, under which the work will be performed. The bidders shall be responsible for all conditions that affect the work, including, but not limited to all sub-surface conditions.

SCHEDULE

Board of Public Works & Safety

The contractor agrees to furnish at his/her/its own cost all labor, insurance, materials, equipment, and power for the complete performance of the following project:

Pontiac Street - Radcliffe Drive Sanitary Sewer

Resolution 400-1984.....

All work will be performed in accordance with: Resolution No. 411-1985, Instructions to Bidders, Bond Forms, the IFB, this contract and the applicable plans, specifications, and drawings for a TOTAL PRICE OF \$50.00. (If unit prices are applicable, the contractor agrees to perform for those unit prices as set forth in the Schedule of Unit Prices attached hereto).

The work shall be commenced within ten (10) days after the Board issues a written notice to proceed. All work shall be completed within 60 days after issuance of the notice to proceed. Those days which the contractor cannot work because of severely inclement weather shall not be counted.

Liquidated Damages Provision. (This clause shall be applicable to this contract only if the box contains a checkmark or an "X". It is hereby agreed by and between the City of Fort Wayne and Contractor that time is of the essence of this agreement and the contractor agrees that it will complete the project as herein defined on or before 60 days after issuance of the notice to proceed. The parties agree that it is a business and governmental necessity that the project be completed by this date, that it will be difficult or impossible to make an accurate determination of the damages that would be incurred by the City of Fort Wayne, and therefore provide for liquidated damages in the sum of \$_____ price per day for each and every day after _____ days after issuance of the notice to proceed that the project remains uncompleted. The parties agree that the sum of \$_____ per day is a reasonable estimate as to the damages which would be incurred by the City of Fort Wayne. The parties further agree that causes beyond the control of the contractor may delay the completion date. Therefore, the parties agree that delays in the completion date beyond the control of the contractor shall not result in liquidated damages.

Delays beyond the control of the contractor can include but are not necessarily limited to, the following: Acts of God, strikes, lockouts or industrial disturbances, acts of public enemies, restraining orders of any kind by the government of the United State of America or of the State of Indiana or any of their departments, agencies, or officials, or any civil or military authority, insurrections, riots, landslides, earthquakes, fires, incapacitating storms, floods, and explosions.

In submitting this bid, it is understood that the right is reserved by the Owner to reject any and all bids and to waive any defect in any bid.

O.C. 2/85

B.O.W. Non-Fed.

NON-COLLUSION AFFIDAVIT

The Bidder, by its Officers and TOMCO CONSTRUCTION CO., INC.

agents or representatives present at the time of filing this bid, being duly sworn on their oaths, say that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other bidder, or with any public officer of such City of Fort Wayne, Indiana, whereby such affiant or affiants or either of them, has paid or is to pay to such other bidder or public officer any sum of money, or has given or is to give such bidder or public officer anything of value whatever or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other bidder or bidders, which tends to or does lessen or destroy free competition in the letting of the contract sought for by the attached bids, that no inducement of any form or character other than that which appears upon the face of the bid will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the said bid or awarding of the contract, nor has this bidder any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the contract sought by this bid.

TOMCO CONSTRUCTION CO., INC.

Thomas Fiskering
Thomas M. Fiskering

Subscribed and sworn to before me by this 9 day of Aug., 1985.

My Commission Expires:

Oct 28, 1986

Donna J. Owens
Notary Public

Resident of Allen County

DONNA J. OWENS

Subscribed and sworn to before me by this ____ day of _____, 198 ____.

My Commission Expires:

Notary Public

Resident of _____ County

County

Subscribed and sworn to before me by this ____ day of _____, 198 ____.

My Commission Expires:

Notary Public

Resident of _____ County

County

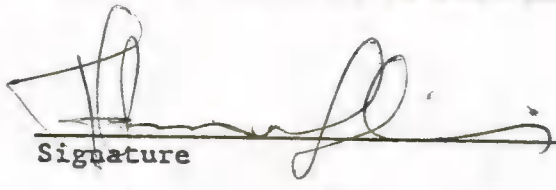
CERTIFICATE IN LIEU OF FINANCIAL STATEMENT

I, THOMAS FISHERING, the PRESIDENT
_____, of TOMCO CONSTRUCTION CO., INC.
Position Company

hereby certify:

1. That the Financial Statement of said company, dated the ____ day of _____ 198____, now on file in the office of the Board of Public Works & Safety is by reference incorporated herein and made a part hereof, is a true and correct statement and accurately reflects the financial condition of said company as of the date hereof:
2. That I am familiar with the books of said Company showing its (financial) condition and am authorized to make this certificate on its behalf.

Dated: 8-14-85



Signature

PRESIDENT

Title

Subscribed and sworn to before me, a Notary Public, in and for said County and State this 9 day of Aug, 1985.



Notary Public

Resident of Allen County

DONNA J. OWENS

My Commission Expires:

Oct 28, 1986

TO BE EXECUTED BY BIDDER AND SURETY COMPANY BEFORE DEPOSITING BID:

BIDDER'S BOND

Know All Men by These Presents:

That WE, Tomco Construction, Inc., Fort Wayne, IN as principal
and Continental Insurance Company, New York, New York
and _____ as sureties,
are held and firmly bound unto the City of Fort Wayne, Indiana, in the sum
of five percent (5%) of the TOTAL BID PRICE DOLLARS (\$ _____),
to be paid to the said City of Fort Wayne, Indiana, or its successors or
assigns, for the payment of which, well and truly made, we hereby bind our-
selves, our heirs, successors, executors and administrators, jointly and
severally, firmly by these presents.


Signed and sealed at Fort Wayne, IN, this 14th
day of August, 19 85.

The condition of this obligation is such that if the accompanying bid or
proposal of Tomco Construction, Inc. for resolution #400-1984 for Construction
of the Pontiac Street-Radcliffe Drive Sanitary Sewer

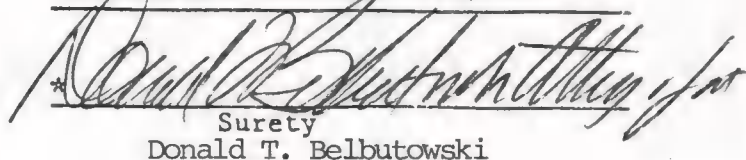
made this day to the City of Fort Wayne, State of Indiana, is accepted, and the
contract awarded to the above bidder, and the bidder shall, within ten (10) days
after such award is made, enter into a contract with the City of Fort Wayne,
State of Indiana, for the work bid upon, and give bond as required; then this
obligation shall be null and void; otherwise, it shall remain in full force and
effect.

SIGNED at Fort Wayne, IN
this 14th day of August, 19 85.

Tomco Construction, Inc.


Principal

Continental Insurance Company


Surety
Donald T. Belbutowski

*If signed by an agent appropriate power
of attorney shall be attached

Commercial Insurance Company of Newark, N.J.

180 Maiden Lane, New York, New York 10038

GENERAL POWER OF ATTORNEY

Know all men by these Presents, That the COMMERCIAL INSURANCE COMPANY OF NEWARK, N.J. has made, constituted and appointed, and by these presents does make, constitute and appoint

Donald T. Belbutowski of Fort Wayne, Indiana

its true and lawful attorney, for it and in its name, place, and stead to execute on behalf of the said Company, as surety, bonds, undertakings and contracts of suretyship to be given to

All Obligees

provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

Five Million (\$5,000,000) Dollars.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the COMMERCIAL INSURANCE COMPANY OF NEWARK, N.J. on the 20th day of February, 1975:

"RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, an Executive Vice President or a Senior Vice President or a Vice President of the Company, be, and that each or any of them hereby is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of COMMERCIAL INSURANCE COMPANY OF NEWARK, N.J. bonds, undertakings and all contracts of suretyship; and that an Assistant Vice President, a Secretary or an Assistant Secretary be, and that each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

FURTHER RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached."

In Witness Whereof, the COMMERCIAL INSURANCE COMPANY OF NEWARK, N.J. has caused its official seal to be hereunto affixed, and these presents to be signed by one of its Vice Presidents and attested by one of its Assistant Vice Presidents this 4th day of June, 1984.

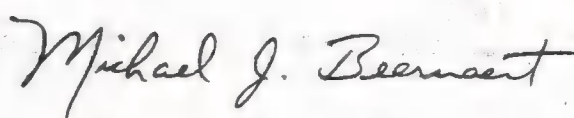
Attest:

COMMERCIAL INSURANCE COMPANY OF NEWARK, N.J.

By



T.H. Stephens, Assistant Vice President



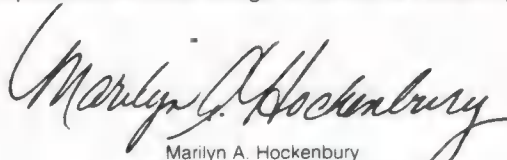
Michael J. Beernaert, Vice President

STATE OF NEW JERSEY

COUNTY OF MIDDLESEX

ss.:

On this 4th day of June, 1984, before me personally came Michael J. Beernaert, to me known, who being by me duly sworn, did depose and say that he is a Vice President of the COMMERCIAL INSURANCE COMPANY OF NEWARK, N.J., the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

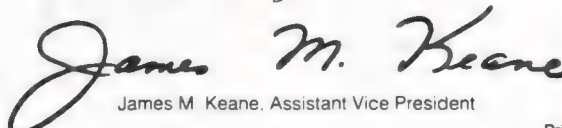


Marilyn A. Hockenbury
A Notary Public of New Jersey
My Commission Expires June 23, 1988

CERTIFICATE

I, the undersigned, an Assistant Vice President of the COMMERCIAL INSURANCE COMPANY OF NEWARK, N.J., a New Jersey corporation, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore that the provision of Resolution of the Board of Directors, set forth in the said Power of Attorney, is now in force.

Signed and sealed at Piscataway, in the State of New Jersey. Dated the 14th day of August, 1985



James M. Keane, Assistant Vice President



The City of Fort Wayne

WATER POLLUTION CONTROL ENGINEERING DEPARTMENT
ROOM 700 CITY-COUNTY BUILDING, ONE MAIN STREET
FORT WAYNE, IN 46802 (219) 427-1143

7 August 1985

TO PROSPECTIVE BIDDERS:

SUBJECT: Addendum No. 1 - PONTIAC ST.-RADCLIFFE DR. (sanitary sewer)

Gentlemen:

1) Attached is the Addendum No. 1 for subject project.

Please insert revised sheet S-1 and destroy sheet S-1 within your bid packet. The revised sheet S-1 changes Item #8 as noted.

Please signify receipt of Addendum No. 1 by signing the form below.

If there are any questions, please contact the undersigned of this office directly at (219) 427-1143.

Sincerely,

A handwritten signature in cursive script, reading "C. Duane Embury".

C. Duane Embury, P.E., Chief
Water Pollution Control Engineer

CDE/EJ/slr

Attachment: Addendum No. 1

Received this 7 day of August 1985.

A handwritten signature in cursive script, reading "Tomco Construction Co., Inc.". Below the signature is a horizontal line.

Bidding Contractor

TOMCO CONSTRUCTION CO., INC.

PROJECT NAME: PONTIAC STREET - RADCLIFFE Sanitary Sewer Resolution 400-1984

[illegible]

Construction Cost

Engineering & Inspection

Street Cut Permit

Advertising

Total Cosntruction

14924

11415

160

40

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

Tomco Construction Co., Inc.

(Name of Contractor)

1835 Berkley Avenue, Fort Wayne, Indiana 46815

(Address of Contractor)

a Corporation, hereinafter called Principal,
(Corporation, Partnership or Individual)

and The Continental Insurance Company
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, and Indiana Municipal Corporation in the penal sum of Fourteen thousand, nine hundred twenty five & 00/100---- (Dollars (\$ 14,925.00-----) for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 26th day of August 1985, for the construction of:

Resolution 400-1984

Pontiac Street - Radcliffe Drive Sanitary Sewer

all according to the "General and Detailed Specifications" as supplemented, and "Special Conditions" which together will be referred to as the Standard Specifications; and according to Fort Wayne Street Engineering Department Drawing No. _____ Sheet No. _____. The Indiana State Highway Standard Specifications dated 1985 shall govern where the above specifications do not cover a specific term.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed 2 counterparts,
(number)
each one of which shall be deemed an original, this 26th day of
August, 19 85.

ATTEST:

Judith Fisher
(Principal) Secretary
(SEAL)

J. M. [Signature]
Witness as to Principal
1034 OAKLAND
(Address)

ATTEST:

(Surety) Secretary
(SEAL) Yaste, Zent & Rye Agency, Inc.
By: [Signature]
Witness as to Surety
201 West Wayne Street
(Address)
Fort Wayne, Indiana 46801

TOMCO CONSTRUCTION CO., INC.

Principal

By [Signature] (S)
Thomas W. Fisher

1835 Berkley Avenue, Fort Wayne, Indiana 46815
(Address)

THE CONTINENTAL INSURANCE COMPANY

Surety

By [Signature]
Attorney-in-Fact
Donald T. Belbutowski

201 West Wayne Street
(Address)

Fort Wayne, Indiana 46801

NOTE: Date of Bond must not be prior to Date of Contract.
If Contractor is Partnership, all partners should execute bond.

The Continental Insurance Company

180 Maiden Lane, New York, New York 10038

GENERAL POWER OF ATTORNEY

Know all men by these Presents, That THE CONTINENTAL INSURANCE COMPANY has made, constituted and appointed, and by these presents does make, constitute and appoint

Gerald A. Dahle of Fort Wayne, Indiana

its true and lawful attorney, for it and in its name, place, and stead to execute on behalf of the said Company, as surety, bonds, undertakings and contracts of suretyship to be given to

All Obligees

provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

Five Million (\$5,000,000) Dollars.

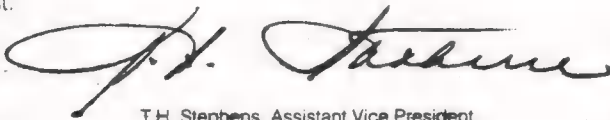
This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company on the 1st day of November, 1977:

"RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, an Executive Vice President or a Senior Vice President or a Vice President of the Company, be, and that each or any of them is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of the Company, bonds, undertakings and all contracts of suretyship; and that an Assistant Vice President, a Secretary or an Assistant Secretary be, and that each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

FURTHER RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached."

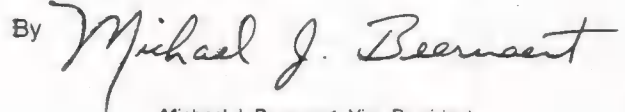
In Witness Whereof, THE CONTINENTAL INSURANCE COMPANY has caused its official seal to be hereunto affixed, and these presents to be signed by one of its Vice Presidents and attested by one of its Assistant Vice Presidents this 4th day of June, 1984.

Attest:



T.H. Stephens, Assistant Vice President

THE CONTINENTAL INSURANCE COMPANY

By 

Michael J. Beernaert, Vice-President

STATE OF NEW JERSEY

COUNTY OF MIDDLESEX

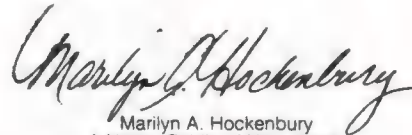
ss.:



On this 4th day of June, 1984, before me personally came Michael J. Beernaert, to me known, who being by me duly sworn, did depose and say that he is a Vice President of THE CONTINENTAL INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



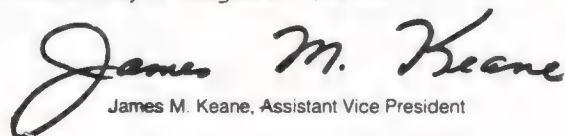
CERTIFICATE


Marilyn A. Hockenbury
A Notary Public of New Jersey
My Commission Expires June 23, 1988

I, the undersigned, an Assistant Vice President of THE CONTINENTAL INSURANCE COMPANY, a New Hampshire corporation, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney, is now in force.

Signed and sealed at Piscataway, in the State of New Jersey. Dated the 26th day of August, 19 85.




James M. Keane, Assistant Vice President

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that

Tomco Construction Co., Inc.

(Name of Contractor)

1835 Berkley Avenue, Fort Wayne, Indiana 46815

(Address of Contractor)

a Corporation hereinafter called
(Corporation, Partnership, or Individual)

Principal, and The Continental Insurance Company

(Name of Surety)

New York, New York

(Address of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the penal sum of Fourteen thousand,
nine hundred twenty five & 00/100 dollars (\$ 14,925.00-----) for the payment whereof well and truly to be made, the Principal and the Surety bind themselves their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by those present.

The condition of the foregoing obligation is such that:

WHEREAS, the Principal entered into certain contract with the City, dated the 26th day of August, 1985, for construction of:

Resolution 400-1984

Pontiac Street - Radcliffe Drive Sanitary Sewer

all according to the "General and Detailed Specifications" as supplemented, and "Special Conditions" which together will be referred to as the Standard Specifications; and according to Fort Wayne Street Engineering Department Drawing No. _____ Sheet No. _____. The Indiana State Highway Standard Specifications dated 1985 shall govern where the above specifications do not cover a specific term, and

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alternation, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the City and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the three years guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 3
(number)

counterparts, each one of which shall be deemed an original, this 26th
day of August, 19 85.

ATTEST:

Judith Fisher
(Principal) Secretary

[SEAL]

J. M. [Signature]
(Witness as to Principal)
1034 OAKLAND
(Address)

TOMCO CONSTRUCTION CO., INC.
(Principal)

BY: [Signature] [S]

1835 Berkley Avenue
(Address)

Fort Wayne, Indiana 46815

THE CONTINENTAL INSURANCE COMPANY
Surety

ATTEST:

(Surety) Secretary
[SEAL] Waste, Zent & Rye Agency, Inc.
By: [Signature]
Witness as to Surety

102 West Wayne Street
(Address)

Fort Wayne, Indiana 46801

By [Signature]
Attorney-in-Fact
Donald T. Belbutowski
102 West Wayne Street
(Address)

Fort Wayne, Indiana 46801

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

The Continental Insurance Company

180 Maiden Lane, New York, New York 10038

GENERAL POWER OF ATTORNEY

Know all men by these Presents, That THE CONTINENTAL INSURANCE COMPANY has made constituted and appointed, and by these presents does make, constitute and appoint

Donald T. Belbutowski of Fort Wayne, Indiana

its true and lawful attorney, for it and in its name, place, and stead to execute on behalf of the said Company, as surety, bonds, undertakings and contracts of suretyship to be given to

All Obligees

provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

Five Million (\$5,000,000) Dollars.

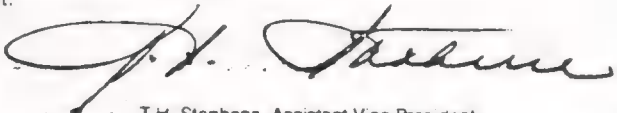
This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company on the 1st day of November, 1977:

"RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, an Executive Vice President or a Senior Vice President or a Vice President of the Company, be, and that each or any of them is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of the Company, bonds, undertakings and all contracts of suretyship, and that an Assistant Vice President, a Secretary or an Assistant Secretary be, and that each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company

FURTHER RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached."

In Witness Whereof, THE CONTINENTAL INSURANCE COMPANY has caused its official seal to be hereunto affixed, and these presents to be signed by one of its Vice Presidents and attested by one of its Assistant Vice Presidents this 4th day of June, 1984.

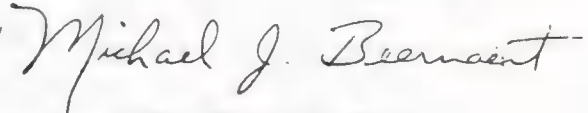
Attest:



T.H. Stephens, Assistant Vice President

THE CONTINENTAL INSURANCE COMPANY

By



Michael J. Beernaert, Vice-President

STATE OF NEW JERSEY

COUNTY OF MIDDLESEX

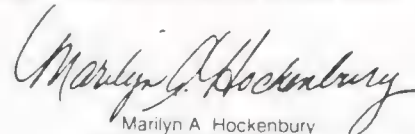
ss.:



On this 4th day of June, 1984, before me personally came Michael J. Beernaert, to me known, who being by me duly sworn, did depose and say that he is a Vice President of THE CONTINENTAL INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



CERTIFICATE

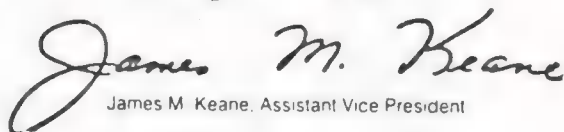


Marilyn A. Hockenbury
A Notary Public of New Jersey
My Commission Expires June 23, 1988

I, the undersigned, an Assistant Vice President of THE CONTINENTAL INSURANCE COMPANY, a New Hampshire corporation, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney, is now in force.

Signed and sealed at Piscataway, in the State of New Jersey. Dated the 26th day of August, 1985.





James M. Keane, Assistant Vice President

NOTICE TO PROCEED

TO: Tomco Construction, Inc.

DATE: 21 August 1985

1835 Berkley Avenue

Project: PONTIAC-RADCLIFFE SANITARY

Fort Wayne, In

SEWER - RESOLUTION 400-1984

You are hereby notified to proceed in accordance with your contract dated 21
August, 1985, on the project and you are to complete the project within 60
consecutive calendar days thereafter.

THEREFORE, the date for the completion of this project is 20 OCTOBER
 , 1985.

OWNER:
CITY OF FORT WAYNE

By: Board of Public Works & Safety

By David J. Kiester
David J. Kiester, Director

By Cosette R. Simon
Cosette R. Simon, Director

By Lawrence D. Consalvos
Lawrence D. Consalvos, Director

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED
is hereby acknowledged by:

this the 30 day of August

1985.

By [Signature]

Title PRESIDENT

NOTICE OF AWARD

TO: Tomco Construction, Inc

1835 Berkley

Fort Wayne, In

PROJECT DESCRIPTION: PONTIAC-RADCLIFFE SANITARY SEWER - RESOLUTION 400-1984

The OWNER has considered the BID submitted by you for the above-described WORK, in response to its advertisement for bids dated 8/14 1985 and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$ 14,925.00.

You are required by the Information for Bidders to execute the Agreement and furnish the required Contractor's Performance Bond and Payment Bond within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said bonds within ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER's acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this 21st day of Aug, 1985.

OWNER:

City of Fort Wayne

By

David J. Kunt

Title

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD
is hereby acknowledged by

Thomas J. ...

Title

PRESIDENT

TITLE OF ORDINANCE Contract for Res 400-84, Pontiac-Radcliffe Sewer

DEPARTMENT REQUESTING ORDINANCE Board of Public Works & Safety

SYNOPSIS OF ORDINANCE The Contract for Res. 400-84, Pontiac-Radcliffe Sanitary Sewer Improvement is for the following: 85-10-24

MAIN LINE

Beginning at a proposed manhole located 20± L.F. West of and 15± L.F. South of from the Southeast Corner of McKee Street and Radcliffe Drive thence due North 385± L.F. terminating at a proposed manhole located 20± L.F. west of and 15½ L.F. South of from the Southeast corner of Pontiac Street and Radcliffe Drive.

Said sewer shall be 8" in diameter.

Tomco Construction, Inc. is the contractor.

PRIOR APPROVAL WAS RECEIVED AUG. 27, 1985

EFFECT OF PASSAGE Improved sewer condition at the above.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$14,925.00

ASSIGNED TO COMMITTEE

BILL NO. S-85-10-24

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS

REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ approving Contract for

Res. #400-84, Pontiac Street-Radcliffe Drive Sanitary Sewer, by the
City of Fort Wayne, by and through its Board of Public Works and
Safety and Tomco Construction, Inc.



HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)
(~~RESOLUTION~~)

YES

NO

Thomas C. Henry
THOMAS C. HENRY
CHAIRMAN

Janet G. Bradbury
JANET G. BRADBURY
VICE CHAIRWOMAN

Donald J. Schmidt
DONALD J. SCHMIDT

James S. Stier
JAMES S. STIER

Charles B. Redd
CHARLES B. REDD

CONCURRED IN 10-22-85

SANDRA E. KENNEDY
CITY CLERK